

Surface Mining Reclamation and Enforcement, Interior

§ 917.15

2, Hudson Hollow Complex, Frankfort, Kentucky 40601.

[48 FR 251, Jan. 4, 1983, as amended at 59 FR 17929, Apr. 15, 1994]

§ 917.11 Conditions of State regulatory program approval.

The approval of the Kentucky State program is subject to the state revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, to the regulations, to the program narrative, or by means of a legal opinion. This section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a)-(p) [Reserved]

[47 FR 21434, May 18, 1982, as amended at 49 FR 33247, Aug. 22, 1984; 49 FR 37587, Sept. 25, 1984; 50 FR 8610, Mar. 4 1985; 50 FR 23003, May 30, 1985]

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

(a) The Director does not approve the following provisions of the proposed program amendment concerning permit renewals that Kentucky submitted on April 23, 1998:

(1) The phrase “* * * if a permit has expired or * * *” in KRS 350.060(16).

(2) The following sentence in KRS 350.060(16): “Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal

application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.”

(b) [Reserved]

[65 FR 29953, May 10, 2000]

§ 917.13 State statutory and regulatory provisions set aside.

(a) The following provision of Kentucky Revised Statute at KRS 350.060(22) is inconsistent with section 701(28) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside effective December 1, 1985:

“(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.”

(b) Reserved]

[50 FR 47728, Nov. 20, 1985]

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
May 28, 1982	January 4, 1983	405 KAR 1:005 § 6; 3:005 § 6; 7:020 § 1(11), (70), (117); 7:030 § 1; 7:040 § 5(1), 10(2), (7); 7:090 § 4(1), (6); § 6; 7:095, 8:010 § 6(1), (2), 13(1), 20(5), 21(2)(a)(4), (b)(1), 22(1), (2)(a), (a)(2), (2)(c)(1), (4), (5), (6); 8:020 § 2(2)(h); 8:030 § 23(4); 12:010 § 3(5)(a), (b); 16:140 § 2(1)(d); 18:140 § 2(1)(d); 24:020 § 3(5), (7), 4(6); 24:030 § 4(4), 8(7), 9.
May 28, 1982	May 13, 1983	KRS 151.250(3); 350.010, .035, .062(9), .093 § 2, .425, .990; 405 KAR 16:020 § 4.
January 11, 1983	May 20, 1983	405 KAR 7:020 § 1(13), (27), (34), (57); 12:010 § 6; 16:060 §§ 1(3), 9(2), 11(1), .090 §§ 2, 5(5), .110 § 2(2), .130 § 2(2), .220 § 4; 18:060 §§ 7(3), 9(1), (3), .090 §§ 2, 5(5), .110 2(2), .130 § 2(2), .230 § 4; 24:030 § 3.
February 1, 1983	October 12, 1983 ...	Technical Reclamation Memorandum #9.
October 31, 1983	November 25, 1983	405 KAR 7:020E, :030E.
January 10, 1984	April 13, 1984	“Kentucky's Plan for Transition to Primacy”.
May 1, 1984	August 22, 1984	KRS 350.010, .032, .093(2), .250(1), (3), (4); 355.060(5)(g).
October 31, 1983	September 25, 1984	405 KAR 1:030, :040, :050; 7:020, :030, :090; 8:030, :040; 16:060, :090, :140; 18:090, :140.
October 31, 1983	October 3, 1984	405 KAR 8:050 § 2; 16:190; 18:190.
October 12, 1984	March 4, 1985	405 KAR 7:020 § 1(87), (118), :030 § 3(1)(e).
August 3, 1984	May 30, 1985	KRS Chapter 350, .032, .060, .135, .990; 405 KAR 16:020.

Original amendment submission date	Date of final publication	Citation/description
August 29, 1985	November 20, 1985	Paragraph D of "Field Enforcement Procedures" in § II of the State program plan; 405 KAR 7:090 §§ 11(2)(a), 12(3); 24:030 defining "substantial legal and financial commitments".
December 4, 1984	December 10, 1985	405 KAR 7:070; 16:120; 18:120.
June 6, 1984, December 17, 1985.	January 24, 1986 ...	405 KAR 1:015; 3:015; 7:015.
August 13, 1985	March 3, 1986	405 KAR 7:020, :080; 8:030, :040; 12:010, :020; 16:050, :110, :130, :170; 18:050, :110, :130, :170; 20:030.
September 16, 1985, December 10, 1985.	March 17, 1986	405 KAR 7:015; 10:030.
December 10, 1985 ..	April 4, 1986	405 KAR 7:090, § 11(2)(a).
December 3, 1985	April 9, 1986	405 KAR 7:020E; 8:050E; 20:070E.
August 3, 1984	May 27, 1986	KRS 350.066 through .070; 405 KAR 10:035.
April 29, 1986	July 15, 1986	KRS Chapter 350 contained in Senate Bills 130, 374; KRS 350.470 through .550 contained in House Bill 285; KRS 350.060(22) contained in House Bill 757; KRS 350.990 contained in House Bill 839.
August 30, 1985, September 16, 1985, February 7, 1986.	August 27, 1986	405 KAR 7:020, :060; 8:030, :040, :050; 16:010, :060, :080, :190; 18:060, :080, :190; 20:040, :070; documents incorporated by reference: "Soil Conservation Service, Kentucky Standards and Specifications for Land Restoration, Currently Mined Prime Farmland;" "Kentucky Prime Farmland Revegetation and Crop Production After Mining;" "Estimated Crop Yields on Prime Farmland Soils in Western Kentucky Coalfields;" "Estimated Crop Yields on Prime Farmland Soils in Eastern Kentucky Coalfields".
September 5, 1986 ...	March 9, 1987	405 KAR 10:200.
February 27, 1987	December 31, 1987	405 KAR 16:060 § 11, :190 § 2.
June 17, 1987	March 10, 1988	405 KAR 7:070.
April 29, 1988	October 6, 1988	405 KAR 7:090.
May 28, 1987	October 7, 1988	KRS 350.032 contained in House Bill 869.
July 5, 1989	December 15, 1989	405 KAR 8:010, :020, :030, :040; 24:040.
April 29, 1986	April 9, 1990	KRS 350.032.
April 21, 1988	August 10, 1990	KRS 350.020, .060, .064, .093, .130, .131, .151.
August 15, 1989	November 1, 1990 ..	405 KAR 8:010 § 20(3), (5).
July 15, 1988	December 31, 1990	405 KAR 7:015, :020, :030, :090; 8:010, :020, :050; 10:010, :020, :030, :040, :050; 16:010, :070, :080, :100, :110, :120, :150, :190; 18:010, :070, :080, :100, :110, :120, :150, :190; 20:010, :060; 24:020, :030, :040.
May 8, 1990	February 6, 1991	KRS chapter 350 contained in Senate Bill 255; 350.010, .053, .054, .057, .060, .070, .085, .090, .093, .110, .113, .130, .139, .151, .990; 224.083.
January 9, 1991	April 16, 1991	405 KAR 10:040 § 2(4)(b)1.
January 24, 1991	September 23, 1991	405 KAR 7:020 § 1; 8:010 §§ 13(4), (5), 18(5), 25(1) through (4), :030 §§ 1(4), 2, 3, :040 §§ 1(3), 2, 3; 12:020 § 3(6).
June 28, 1991	April 15, 1992	405 KAR 7:080.
September 18, 1989	August 18, 1992	405 KAR 10:200; KRS 350.710–710.
June 28, 1991	October 1, 1992	405 7:001, § 1, :015 § 4(6), (7), :020, :021, § 1, :030 § 3(1) through (4), :035, § 1 through 9; 8:001 § 1, :020 § 1, 1(1), (2)(c), 2, (1), (2)(g), 4, 4(c)(5); 10:001 § 1, :200 §§ 1, 2, 4(4), 5(3), 6(1), (2), 7(1), (d), (e), (f), (j), (2), (d), (e), (i); 12:001 § 1; 16:001 § 1, :190 § 7(2), :210 §§ 1(1), 2, 3, 4; 18:001 § 1, :190 § 5(2), :220 §§ 1(1), 2, 3, 4; 20:001 § 1, :010 §§ 2, 3, 4; 24:001 § 1.
March 13, 1992	December 9, 1992 ..	405 KAR 8:030(20), (36), :040(20), (36); 16:180(1), (2), (3).
July 30, 1992	December 17, 1992	KRS Chapter 350 §§ 350.550, .553, .560, .597.
June 28, 1991	January 12, 1993 ...	405 KAR 8:010 § 5(1)(c), (d), 12(1)(a), 14(8), 20(2)(a)10, (3)(a), (d)23, (f), 20(5) through (7).
July 30, 1992	March 26, 1993	KRS Chapter 350 contained in House Bill 844 and Senate Bill 381; 350.010, .0281, .130(1), .260, .450(4)(c), .705(1) (b), (c); numerous other sections on "applicant," "permit applicant," "permittee," "person," "operator".
June 28, 1991	June 8, 1993	405 KAR 16:200, 18:200, TRM No. 19 (Field Sampling Techniques for Determining Ground Cover, Productivity, and Stocking Success of Reclaimed Surface Mined Lands), the use of average county yield data found in Kentucky Agricultural Statistics, a report published annually by the Kentucky Agricultural Statistics Service.
July 28, 1992	August 6, 1993	KRS 350 contained in Senate Bill 318; 405 KAR 7:001, 7:090, :091, :092; 8:001; 12:020.
July 21, 1992	October 1, 1993	405 KAR 1:007, 3:007, 7:030 § 4.
May 21, 1993	February 24, 1994 ..	405 KAR 10:050 Statutory and regulatory citations, sections Necessity and Function, 1(1), 2(4), (5); 12:001 section Necessity and Function, (29), (30); 12:010 Statutory and regulatory citations, sections Necessity and Function, 3(2), (5)(a), (b), 4(1), (3).
June 28, 1991	May 26, 1994	405 KAR 8:030 §§ 1(4)(a), (b), 2(3), (4), (5)(a), (11), (12), 3(5), 4(2), 5(4), 10, 37–MRP, 38–MRP; 8:040 § 1(3)(a), (b), 2(3), (4), (11), (12), 3(5), 4(2), 5(4), 10, 37–MRP, 38–MRP.
April 26, 1994	September 1, 1994	405 KAR 7:080 sections Necessity and Function, 1, 3, 4, 5, 6(4), (5), (8)(b), 7(1)(b), (3), 8, 10(2) (a), (b), 11(1), (d), (e).
April 18, 1994	September 16, 1994	KRS 350.010, 350(1) through (32).

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Original amendment submission date	Date of final publication	Citation/description
October 3, 1994 April 29, 1994	February 15, 1995 .. June 27, 1995	405 KAR 7:080 §§ 5(2), (a), (b), 6, 8(2)(a)(11), (b)(11), 11(1), (e). KRS 42.470(1)(c); 132; 136; 138; 139; 177.977; 211.390(1), .392(1), (2), (5), (6), (8); 350.010 (1), (2), (9), (16), (22), (23), .0285, .0301(1), (4), .0305, .032(2), (4), .070(1), .085(1), (7), .095(1), (2), .421, (1), (2), .560(1); 351.070(13), (14); 352.420(3).
August 2, 1994 August 15, 1996	December 7, 1995 .. August 29, 1997	405 KAR 16:010 §§ 1, 6, 7, 8; 18:010 §§ 4, 5, 6. KRS 350.131(3), 350.150(1), Chapter 350 Section 3, KRS 350.0301(1), 350.990(1).
November 3, 1997 June 28, 1991 April 23, 1998	July 31, 1998 August 4, 1998 May 10, 2000	Staffing and budget levels. 405 KAR 16:200 § 1(7)(b) and 18:200 § 1(7)(b). KRS 350.060(16) [partial approval]; 350.131(2); 350.139(1); 350.990 (1), (3), (4), (9), and (11).

(b) The Director is deferring his decision on the enforcement provisions of section 720 of the Act from its effective date (October 24, 1992), to the effective date of KRS 350.421(1) and (2) (July 15, 1994).

[62 FR 9942, Mar. 5, 1997, as amended at 62 FR 45717, Aug. 29, 1997; 63 FR 40827, July 31, 1998; 63 FR 41427, Aug. 4, 1998; 65 FR 29953, May 10, 2000]

§917.16 Required regulatory program amendments.

(a)-(b) [Reserved]

(c) Pursuant to 30 CFR 732.17, Kentucky is required, prior to implementation of the following statutory amendments, to submit to the Director proposed regulations to implement the amendments, and to receive the Director's approval of the regulations:

(1) [Reserved]

(2) Statutory amendments contained in Senate Bill 374, submitted to OSMRE on April 29, 1986.

(3) Statutory amendments contained in House Bill 839, submitted to OSMRE on April 29, 1986.

(d) Pursuant to 30 CFR 732.17, Kentucky is required to submit for OSM's approval the following proposed amendments by the dates specified:

(1) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 7:090 section 3(4)(a) to remove the word "abated" or otherwise propose to amend its program to clarify that the rule applies to abated and unabated violations.

(2) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 8:010 section 8(2) or otherwise propose to amend its program to require that public notice shall not be initiated until the cabinet has deter-

mined that an application is administratively complete.

(3) [Reserved]

(4) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 16:100 section 1(3)(a) and 405 KAR 18:100 section 1(3)(a) or otherwise propose to amend its program to require that all C class impoundments shall have a minimum static safety factor of 1.5 since, as defined at 405 KAR 7:040 section 5(2)(c), such impoundments could cause loss of life or serious property damage and to require that all other impoundments have a minimum static safety factor of 1.3 or meet specific design criteria no less effective than that standard.

(5) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 20.060 section 3(3)(b) or otherwise propose to amend its program to clarify that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and to require the appropriate state environmental agency to approve the plan.

(e) By March 23, 1992, Kentucky shall amend its rules at 405 KAR 8:010 section 13(4)(c) to include violations of Federal regulatory programs and other State regulatory programs, not just violations of KRS chapter 350 and regulations adopted pursuant thereto.

(f) By July 25, 1994 Kentucky shall submit either an amendment or a description of a proposed amendment with a timetable for adoption, that would amend its rules at 405 KAR 8:010 section 5(1) (c) and (d) to require that information required by sections 2 and